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**REPORT No. 57/14**  
**PETITION 775-03**  
REPORT ON ADMISSIBILITY

JUAN GONZÁLEZ AND OTHERS  
HONDURAS

Approved by the Commission at its session No. 1991 held on July 21<sup>st</sup>, 2014  
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Honduras. July 21<sup>st</sup>, 2014.

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**I. SUMMARY**

1. The present report refers to the five following petitions received by the Inter-American Commission on Human Rights (hereinafter the “Commission”, the “Inter-American Commission” or “IACHR”): P 775-03: Juan González and others, filed by José Marcelino Vargas on September 23, 2003; P 1004-03: Julio César Villalobos and others, filed by Julio César Villalobos Velásquez on November 26, 2003; P 22-04: Juan Bautista Vargas Díaz and others, filed by Juan Bautista Vargas Díaz on January 12, 2004; P 217-05: César Augusto Somoza and others, filed by Gladys Ondina Matamoros Arias on January 8, 2005; P 1092-05: Rosa Dilia Salinas Barahona and others, filed by Rosa Dilia Salinas Barahona on December 15, 2005 (hereinafter the “alleged victims”).<sup>1</sup> In these petitions, it was alleged that the State of Honduras (hereinafter “Honduras,” “State” or “Honduran State”) had incurred international responsibility for alleged violations of rights enshrined in the American Convention on Human Rights (hereinafter “American Convention” or “Convention”), as a result of mass dismissals of staff of the National Police Force at various ranks, in the framework of the depuration in the above-mentioned institution.

2. All of the petitions alleged that the State had presumably violated Article 8 (right to a fair trial) and Article 25 (rights to judicial protection) of the American Convention, because the alleged victims had been dismissed without justification, on the basis of Decree 58-2001, published in the Official Register *La Gaceta* No. 29,504 of June 15, 2001 (hereinafter “Decree 58-2001”), and that their dismissal had not followed the legal procedures established for dismissal. The petitioners also alleged that the Honduran State was responsible for violating rights enshrined in Article 5 (right to personal integrity), Article 10 (right to compensation), Article 11 (protection of one’s honor and dignity), Article 17 (rights of the family) and Article 24 (rights to equal protection) of the American Convention, in connection with the general obligation set forth in Articles 1.1 and 2 of this instrument.

3. As for the State, it admitted that Decree 58-2001 was a legally erroneous statute and that, in observance of the principles and practices of international law enshrined in the Convention, it rectified its error by the Supreme Court of Justice judgment declaring that said Decree was unconstitutional. It also specified that the petitioners did not exhaust domestic remedies as required by generally recognized principles of international law, because they consented to the dismissal by accepting the respective compensations and because they did not file legal proceedings on time and in due form with the courts of Honduras.

4. In accordance with the provisions of Article 29.5 of the Commission’s Rules of Procedure, petitions 775-03, 1004-03, 22-04, 217-05 and 1092-05 were joined because they focused on the same facts.

5. Without prejudging the merits of the case, after reviewing the positions of the parties and their compliance with the requirements set forth in Articles 46 and 47 of the American Convention, the Commission decided to declare that the petition was admissible so as to examine the alleged violation of Articles 8 and 25 of the Convention, in connection with its Articles 1.1 and 2. It also decided to declare the case inadmissible for the alleged violation of Articles 5, 10, 11, 17 and 24. Finally, it decided to send the report to the parties and order that it be published in its annual report to the General Assembly of the OAS.

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<sup>1</sup> The names of the alleged victims, as well as the respective proceedings in the framework of this specific situation, are provided in detail in Annex A to the present report.

## II. PROCEEDINGS BEFORE THE COMMISSION

### **P 775-03: Juan González and others; P 22-04: Juan Bautista Vargas Díaz and others; P. 217-05: César Augusto Somoza and others; and 1092-05 Rosa Dilia Salinas Barahona and others.**

6. P 775-03: Juan González and others was received on September 23, 2003. On January 12, 2004, P 22-04 Juan Bautista Vargas Díaz and others was received. P 217-05: César Augusto Somoza and others was received on January 8, 2005. Finally, on December 15, 2005, the Commission received P 1092-05: Rosa Dilia Salinas Barahona and others.

7. On October 20, 2006, the Commission decided to join petitions 22-04, 217-05 and 1092-05 with the initial petition 775-03. That same day it was sent to the State, which was granted two months to submit its observations. The State's response was received on December 19, 2006 and sent to the petitioners on May 1, 2007. In addition, information was received from the petitioners on May 30, 2007 and February 8, 2008. These communications were duly forwarded to the Honduran State. As for Honduras, it sent information on September 28, 2007, October 2, 2007 and May 21, 2008. These communications were forwarded to the petitioners.

8. By a communication of December 11, 2006, the petitioners reported to the Commission that the Committee for the Defense of Human Rights in Honduras (Comité para la Defensa de los Derechos Humanos en Honduras—CODEH) would be designated as co-petitioner. On May 21, 2007, Gladis Matamoros, who had filed P 217-05, informed the present Commission that she would withdraw as a petitioner and that she would allow CODEH to take her place. These communications were forwarded to the State on July 16, 2007.

### **P 1004-03: Julio César Villalobos Velásquez and others**

9. On November 26, 2003, the Commission received this petition. The petitioner provided additional information on March 13, 2006. On October 17, 2006, the petition was sent to the State, which was granted two months to submit its respective observations. Its response was received on December 15, 2006 and was forwarded to the petitioners on May 1, 2007. In addition, the Commission received additional information from the petitioners on May 11, 2010 and August 30, 2012. These communications were duly sent to the State. Honduras sent its observations on December 8, 2010 and January 9, 2011. Both communications were forward to the petitioners.

10. On March 10, 2014, the present petition was joined with P 775-03 Juan González and others.

## III. POSITION OF THE PARTIES

### A. Position of the petitioners

#### - Common allegations of all the petitions

11. In all the petitions included in the present report, it was alleged that the State had presumably incurred responsibility for violation of due process of law as set forth in Articles 8 and 25 of the American Convention because the alleged victims had been dismissed without justification as a result of Decree 58-2001. According to the petitioners, this decree authorized the Congress of the Republic "to dismiss police staff without any considerations whatsoever." Regarding this, the petitioners indicated that, although ongoing deputation of the National Police Force is necessary for it to operate better, legal procedures for this must also be followed. In that regard, they pointed out that the dismissal should have been preceded by a regular administrative process, providing all the guarantees that any other criminal proceeding would have benefited from.

12. The petitioners also alleged that Honduras had infringed the right enshrined in Article 24 (right to equal protection), because a decree that was exclusively for them and detrimental to their interest

was applied to them and because it had never been applied to any other category of civil servants. He also pointed out that Honduras had infringed Article 11 (protection of honor and dignity) of the American Convention, because, as a result of the dismissal based on a “decree to purge corrupt persons,” the alleged victims had been the “target of public ridicule,” which had affected their reputation inside and outside the institution and had prevented most of them from being employed. Furthermore, the petitioners alleged violations of Articles 1, 2, 5, 10 and 17 of the American Convention.

13. Furthermore, the petitioners pointed out that, by the resolutions of March 13, 2003, the Supreme Court on Honduras declared that Decree 58-2001 was unconstitutional and inapplicable. Regarding this, they stated that, although Article 316(2) of the Honduran Constitution stipulates that, when a law is declared unconstitutional, it shall have a general effect and be immediately enforceable, the Supreme Court of Justice ruled that this judgment was not retroactive and that, because of this, the declaration that it was unconstitutional would not be applied for the benefit of the alleged victims. According to the petitioners, when the above-mentioned decree was declared unconstitutional, it should have been enforced as well for the benefit of all the persons who were affected by it.

14. Regarding the exhaustion of domestic remedies, the petitioners pointed out that, in four of the proceedings comprising the petition being reviewed herein,<sup>2</sup> remedies under domestic law had already been exhausted. Regarding this they stated that, considering that the judgment declaring that Decree 58-2001 was unconstitutional, proceedings were filed for nullification, appeal, cassation appeal (*casación*) and *amparo* petition [request for the protection of constitutional rights] with the respective entities. Nevertheless, they pointed out that the courts dismissed the remedies on the grounds that the judgment declaring the decree unconstitutional was not applicable to the alleged victims, because the Supreme Court of Justice had established that it would not be retroactive.

15. Specifically, regarding those proceedings where the State alleged that the remedies were filed outside stipulated time-limits, the petitioners pointed out that this assertion is not true, because Article 42 of the Law on Administrative Disputes provides that the 15-day time-limit may be suspended to start proceedings with the courts, when administrative remedies have not been exhausted. In this respect, they pointed out that they exhausted all the legally available remedies and obtained a late and negative response.

16. Finally, the petitioners requested the IACHR to admit the present petition in consideration that no remedy has been effective for the State to recognize the rights safeguarded for the alleged victims.

- **Specific allegations**

17. In P 775-03: Juan González and others, the main complaint stems from the fact that, in the five proceedings on the grounds of breach of the Constitution filed against Decree 58-2001<sup>3</sup>—brought prior to the judgments of March 13, 2003—the Supreme Court of Justice did not declare that it was unconstitutional. They thus indicated that dismissal of these proceedings was based on arguments that showed an inclination to deny justice. In this regard, the petitioners indicated that the Court dismissed the remedy because “in the document of formalization the reasons for the decree being declared unconstitutional as set forth in the original petition document were enlarged.” Finally, they indicated that the Supreme Court of Justice ruling did not provide any legal possibility for challenge with any domestic body and, as a result, the remedies under domestic law regarding this proceeding had been exhausted.

<sup>2</sup> These four legal proceedings requesting reinstatement of employment and other compensation were comprised of the following: a) the one filed by Gladys Matamoros for 202 persons; b) the one filed by Gladys Matamoros for 123 persons; c) the one referring to Marco Antonio Rosado Umaña and Roger Aguilar, and d) the one filed by Delmy Anarda for 11 persons. See Annex A.

<sup>3</sup> Specifically, the judgments dismissing the constitutional challenge proceedings against Decree 58-2001, filed by the legal representative José Marcelino Vargas, pertain to the following dates: a) March 7, in response to proceedings 86-2002, for 11 persons; b) March 7, in response to proceedings 1820-01, for 9 persons; c) March 7, in response to proceedings 2243-01, for 6 persons; d) March 7, 2003, in response to proceedings 2474-2001, for three persons; and e) February 20, 2002, in response to proceedings 1640-01, for three persons. See Annex A.

18. Regarding P 1004-03: Julio César Villalobos Velásquez, the petitioner indicated that, on the basis of Decree 58-2001, he was dismissed from his position in the General Investigation Department on October 20, 2001. He specified that, as a result of a request for reinstatement of employment and other compensations filed with the Security Secretariat, he was reinstated in his previous position on July 7, 2005.<sup>4</sup> His main allegations have to do with the fact that, once he had been reinstated for police investigation, he was not given the seniority that pertained to him, nor was his salary on par with that of his colleagues from the same graduating class. In addition, he pointed out that the State retaliated by having him transferred to the city of San Pedro Sula, where he had to pay for his meals and rent an apartment, which was detrimental to his financial situation and the sustenance of his household. He also alleged that other policemen hired at the same time as he had been, now had positions two ranks higher than him.

## **B. Position of the State**

### **- Common allegations**

19. The State alleged that Decree 58-2001 authorized the State Secretariat to dismiss staff classified in the upper and executive echelons and inspectors of the preventive, investigative, and special police forces, as well as the staff of lower-ranking officers, non-commissioned police, and agents. He also pointed out that the second paragraph of the above-mentioned decree established that the dismissed staff, in line with the Decree, would be entitled to receive compensation consisting of one month of salary for every year that they had served on the force, although for not more than 12 years.

20. Regarding this decree, the State admitted that it had issued an erroneous legal statute and, in application of the principles and practices of international law as set forth in Articles 1, 8 and 25 of the Convention, it corrected its error. It did the above through the Constitutional Chamber of the Supreme Court of Justice, which in its ruling of March 13, 2003 declared that the above-mentioned decree was unconstitutional. The State indicated that said judgment was published on August 19, 2003, via Legislative Decree No. 85-2003.

21. In relation to the above-mentioned judgment declaring the Decree unconstitutional, the State pointed out that, although it is true that the Supreme Court of Justice declared that Decree 58-2001 was unconstitutional, it also established that “said judgment has an *erga omnes* effect, of nullification; therefore it does not affect the legal situations that have been definitively settled and enforced, that is, it is not retroactive, [...]” Because of the above, according to the State, the above-mentioned judgment “only benefits those who resorted to this remedy and that the present petitioners were not to be found amongst them.”

22. Regarding the exhaustion of remedies under domestic law, the State pointed out that the petitioners did not file proceedings in line with generally recognized principle of international law. It based the above mainly on the fact that the petitioners consented to the dismissal when they received payment for their respective compensations and when they did not file legal proceedings within stipulated time-limits and in due form with domestic courts.

23. In addition, the State indicated that, with respect to proceedings aimed at removing or dismissing civil servants,<sup>5</sup> there is a time-limit of 15 working days to file the complaint before the Administrative Disputes Court (*Juzgado de Letras de lo Contencioso Administrativo*),<sup>6</sup> as of notification of the judgment whereby the ruling of unconstitutionality was issued. In this regard, the State pointed out that, in the proceedings filed by attorney Delmy Anarda for the benefit of 11 persons requesting reinstatement of employment and that started with the filing of the complaint on April 16, 2004, the petitioners filed the

<sup>4</sup> Resolution No. SEDS-SG-075-2005, issued by the Secretariat of State in the Security Office.

<sup>5</sup> The above is based on the Law on the Jurisdiction of Administrative Disputes Courts (Articles 108 to 111).

<sup>6</sup> According to what was said by the State, notification of this judgment is deemed to be August 19, 2003, when it was published in the decree of the Official Register of the Federation.

complaint with the Administrative Disputes Court (*Juzgado de Letras de lo Contencioso Administrativo*) outside the time-limit. Because of this, the domestic courts had dismissed the remedies filed (remedies for nullification, appeals, and *amparo* petition [request for the protection of constitutional rights]).

24. Finally, the State requested that the petition be declared inadmissible, under Article 46.1.a of the American Convention, because the petitioners did not exhaust remedies under domestic law in accordance with generally recognized principles of international law.

- **Specific allegations**

25. Regarding P 775-03 and the filing of proceedings on the ground that Decree 58-2001 was unconstitutional, the State indicated that they were dismissed because, in the formalization of the complaint, the complainants alleged articles that were different from those presented in their initial complaint.

26. In relation to P 1004-03, the State pointed out that, on October 22, 2001, Julio César Villalobos Velásquez was dismissed from his job as Criminal Investigation Agent, as a result of Decree 58-2001. Because his appointment was rescinded, the petitioner had received compensation in the amount of 57,270 lempiras (Lps. 57,260) to which he was entitled by Decree 58-2001. Afterwards, in view of the submittal of a request for reinstatement, the State Secretariat in the Security Office decided to reinstate him. Regarding the alleged retaliation by the State against the petitioner, because they had transferred him to the city of San Pedro Sula, the State pointed out that all members of the police force must meet the requirements of their police duties, as a result of which they can be transferred or stationed to any department or agency of the National Police Force. As for the promotions that the petitioner did not benefit from, the State indicated that he was inactive while he was being reinstated for the Police Force, which would have prevented him from meeting the requirements to be promoted, as set forth in the Promotion Handbook. Furthermore, Honduras indicated that the petitioner had tacitly accepted that his appointment had been rescinded when he entered into another professional services contract on January 5, 2004 with the State Secretariat in the Security Office.

**IV. ANALYSIS OF COMPETENCE AND ADMISSIBILITY**

**A. Competence *ratione personae*, *ratione temporis*, *ratione loci* and *ratione materiae***

27. In principle, the petitioners are entitled by Article 44 of the American Convention to file petitions with the Commission. The petition points out that individuals are the alleged victims, whose rights, as enshrined in the American Convention, the State of Honduras has pledged to respect and guarantee. As for the State, the Commission points out that Honduras is a State Party to the American Convention since September 8, 1977, date on which it deposited its ratification instrument, respectively. Therefore, the Commission is competent *ratione personae* to examine the petition. Likewise, the Commission is competent *ratione loci* to hear the petition, because it alleges violations of the rights protected under the American Convention, which had presumably taken place in the territory of Honduras, which is a State Party to said treaty.

28. The Commission is competent *ratione temporis* because the obligation to respect and guarantee the rights protected in the American Convention were already in force for the State at the time that the incidents alleged in the petition took place. Finally, the Commission is competent *ratione materiae*, because, in the petition, possible violations of human rights protected by the American Convention were reported.



## **B. Requirements for admissibility**

### **1. Exhaustion of domestic remedies**

29. Article 46(1)(a) of the American Convention provides that, for the admissibility of a complainant submitted before the Inter-American Commission in accordance with Article 44 of the Convention, it is required that remedies under domestic law be pursued and exhausted in conformity with generally recognized principles of international law. This requirement is aimed at allowing national authorities to hear cases of an alleged violation of a protected right and, if appropriate, having the opportunity to resolve it before being heard by an international body. As for Article 46.2 of the Convention, it provides three hypothetical situations where the rule of exhaustion of remedies under domestic law is not applicable: a) when there is no domestic law of the State involved that provides for due process of law for the protection of the right or rights alleged to have been violated; b) when the person whose rights have allegedly been violated is not allowed to have access to remedies under domestic law or was prevented from exhausting them; and c) when there is unjustified delay in issuing a ruling on the above-mentioned remedies. These situations do not simply refer to the formal existence of said resources, but also to the requirement that they must be adequate and effective.

30. In the present case, the Commission observes that, in view of the dismissals as a result of Decree 58-2001, the alleged victims filed two different proceedings: a) proceedings to declare the above-mentioned decree unconstitutional, which were filed before the Constitutional Chamber of the Supreme Court of Justice; and b) proceedings calling for nullification filed before the Administrative Disputes Court (*Juzgado de Letras de lo Contencioso Administrativo*), requesting that the administrative order of dismissal be rescinded and that jobs be reinstated, as well as other compensations paid.

31. Regarding the first proceedings, the petitioners alleged that dismissal of the constitutional challenge proceedings by the Supreme Court of Justice was based on arguments that tend to establish an inclination to deny justice. They also pointed out that the resolutions dismissing these proceedings did not offer any legal possibility for challenge with any domestic body whatsoever and that, as a result, domestic remedies had been exhausted. The State indicated that the above-mentioned proceedings to declare the decree unconstitutional were dismissed because, in the formalization of their proceedings, the complainants alleged articles that were different from those presented in their initial complaint.

32. With regards to this, the case file indicates that the alleged victims, between November 2001 and January 2002, filed with the Constitutional Chamber of the Supreme Court of Justice five proceedings to declare the decree unconstitutional.<sup>7</sup> With the judgments of February 20, 2002 and March 7, 2003, the Court dismissed these proceedings because it deemed that the complainant invoked the violation of principles that were different from those pointed out in the formalization of the appeal. In the case file found in the present Secretariat, the alleged victims of these five proceedings, in the respective original formalization documents, invoked the violation of the following articles of the Constitution: 59 (obligation to respect and protect persons), 63 (protection stemming from international treaties), 94 (judicial guarantees) and 96 (principle of non-retroactivity), and in the document formalizing the appeals, they continued to allege Article 96 of the Constitution, in addition to Article 64 (non-enforcement of provisions that undermine constitutional rights) and Article 82 (right to defense).

33. The Commission takes note that the presentation of the facts claimed by the alleged victims in their proceedings to declare the decree unconstitutional, is exactly the same as the one submitted in the

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<sup>7</sup> All the following constitutional challenge proceedings were filed by their legal representative José Marcelino Vargas: a) in response to proceedings 86-2002 (January 17, 2002) for 11 persons, the Supreme Court of Justice issued a judgment on March 7, 2003; b) in response to proceedings 1820-01 (August 24, 2001) for 9 persons, the Supreme Court of Justice issued a judgment on March 7, 2003; c) in response to proceedings 2243-01 (October 23, 2001) for 6 persons, the Supreme Court of Justice issued a judgment on March 7, 2003; d) in response to proceedings 2474-2001 (November 27, 2001) for 3 persons, the Supreme Court of Justice issued a sentence on March 7, 2003; and e) in response to proceedings 1640-01 (November 27, 2001), for 3 persons, the Supreme Court of Justice issued a judgment on February 20, 2002.

proceedings where the Supreme Court of Justice ruled differently, declaring that indeed Decree 58-2001 was unconstitutional.<sup>8</sup> Furthermore, IACHR observed that, both in their original documents and in the formalization of the proceedings to declare the decree unconstitutional, the alleged victims presented legal principles that responded to the same matter. Likewise, the IACHR takes note that it cannot be concluded from the Law for Constitutional Protection (*Ley de Amparo*), which is applicable to constitutional challenge proceedings, that the complainant must invoke the same constitutional principles in both documents. As a result, the Commission considers that remedies under domestic law were exhausted, in accordance with the provisions of Article 46.1.a of the American Convention.

34. Regarding the second proceedings, that is, the petition for nullification requesting that the dismissal be rescinded and plaintiffs reinstated, which was filed with the Administrative Disputes Courts (*Juzgado de Letras de lo Contencioso Administrativo*), the petitioners alleged that, on the basis of the declaration that Decree 58-2001 was unconstitutional, the remedies under domestic law were exhausted, and they specified that, although the judgment declaring the above-mentioned decree unconstitutional should have general effects, the courts decided in their judgment that it would not be applicable to the alleged victims because it was not retroactive. As for the State, it contended that the petitioners did not file or exhaust remedies under domestic law, because they consented to dismissal when they received their respective compensation payments; in addition they did not file legal proceedings in due time and form with domestic courts. Furthermore, regarding the proceedings filed by the attorney Delmy Anarda for the benefit of the 11 persons who requested that they be reinstated, the State of Honduras pointed out that the plea for nullification with the Administrative Disputes Court (*Juzgado de Letras de lo Contencioso Administrativo*) was filed outside the stipulated time-limit, that is, after the 15 working days subsequent to notification, as required by law.

35. In the case file, it indicates that, between June 2003 and April 2004, four legal proceedings were filed calling for nullification with the Administrative Disputes Court (*Juzgado de Letras de lo Contencioso Administrativo*), requesting annulment of the dismissal, reinstatement and payment of other compensation.<sup>9</sup> According to information included in the case file, three of these proceedings were dismissed by the Court on the basis of the argument that, although Article 316 (2) of the Constitution establishes that judgments on constitutional challenges are to be implemented immediately and have general effect, the Supreme Court of Justice established that the judgments declaring Decree 58-2001 unconstitutional would not be retroactive.

36. In addition, according to the above-mentioned court, in administrative law, acts of the State are consented to by individuals if the latter do not file in due time and form the appeals in connection with the case and, in this case, “the only persons who did not consent to the administrative action whereby they were dismissed from their jobs were the persons who filed a constitutional challenge against the statute whereby they were dismissed.”<sup>10</sup>

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<sup>8</sup> Regarding the following constitutional appeals challenging the decree, by judgments of March 13, 2003, the Constitutional Chamber of the Supreme Court of Justice declared that Decree 58-2001 was unconstitutional: a) constitutional challenge proceedings 1665-01 (August 2, 2001), filed by Lastenia Ondina Andino Padilla, for Víctor Montoya Andino, Roberto Carlos Ortega Aguilar, Miguel Ángel Villatoro Aguilar, Alan Rinerio Nájera Martínez, Mario Antonio Álvarez Ortíz, Denis Orlando Erazo Paz, Erwin Emyl Mayes Rios, Danis Roneth Flores Castro, Mario Francés Iscoa, and Marcos Manuel Flores Diaz, and b) constitutional challenge proceedings 2424-01 (December 16, 2001), filed by Lastenia Ondina Andino Padilla, for Otto Hernández Sarmiento and Dauguil Brandal Aguilera F.

<sup>9</sup> These legal proceedings are as follows: a) complaint filed by Gladys Matamoros on June 25, 2003, for 123 persons; b) complaint filed by Gladys Matamoros on September 4, 2003, for 202 persons; and c) complaints filed by Guillermo Antonio Escobar Montalván, for Roger Aguilar Flores and Marco Antonio Rosado, whose date of filing does not appear in the case file; and d) complaint filed by Delmy Anarda on April 15, 2004 for 11 persons. Among the services being requested in these proceedings, there were the following: salaries that had not been paid since their dismissal, vacation leave, and promotions on the basis of the same conditions as their classmates with exemption from taking the courses to be promoted to a higher rank. See Annex A.

<sup>10</sup> The judgments by the Administrative Disputes Court that dismissed the respective complaints have the following dates: June 25, 2004 (in the proceedings for 123 persons filed by Gladys Matamoros); July 1, 2004 (in the proceedings for 202 persons filed by Gladys Matamoros), and June 22, 2004 (in the proceedings filed by Guillermo Antonio Escobar Montalván, for Roger Aguilar Flores and Marco Antonio Rosado).



37. In view of the dismissal of these complaints, in the three proceedings appeals were filed with the Court of Appeals for Administrative Disputes (*Corte de Apelaciones de lo Contencioso Administrativo*),<sup>11</sup> which were also dismissed on the basis of the same argument used to dismiss the proceedings filed in the first instance.<sup>12</sup> As a result of the dismissal of the appeal, a cassation appeal (*casación*) was filed between December 2004 and January 2005 with the Labor Chamber of the Administrative Disputes Court of the Supreme Court of Justice.<sup>13</sup> The case file indicates that these appeals were turned down with the argument that the provisions referred to in the appeal are of a general and inviolable nature for the purpose of the cassation appeal (*casación*) and that the considering clauses of the judgment were being improperly challenged.<sup>14</sup> Regarding these proceedings, the Commission deems that the remedies under domestic law were exhausted in accordance with the provisions of Article 46.1.a of the American Convention.

38. On the basis of the information included in the case file, the fourth proceeding calling for nullification—in connection with the proceedings for eleven persons requesting reinstatement of their employment, filed by Delmy Anarda—the Administrative Disputes Court (*Juzgado de Letras de lo Contencioso Administrativo*), by means of a ruling on September 16, 2004, declared that the appeal was outside the stipulated time-limit. Using the same argument, on November 5, 2004 and May 16, 2005, the Court of Appeals for Administrative Disputes (*Corte de Apelaciones de lo Contencioso Administrativo*) and the Supreme Court of Justice, respectively, turned down the appeal and the *amparo* petition [request for the protection of constitutional rights]. The IACHR observes that, according to the Law on the Jurisdiction of the Administrative Disputes Courts,<sup>15</sup> the respective complaint should have been filed with the administrative disputes courts within a time-limit of 15 working days after notification of the judgment on the constitutional challenge, that is, 15 days after its publication in the Official Register of the Federation on August 19, 2001. The appeal for nullification was filed by the petitioners on April 14, 2004, almost eight months after publication of the judgment on the constitutional challenge. As a result of the above and considering that, for a complaint to be admissible, it must have pursued and exhausted remedies under domestic law in line with generally recognized principles of international law, the Commission in the present case observes that the filing of the complaint outside of the stipulated time-limits does not constitute due exhaustion according to the terms set forth in Article 46.1.a of the American Convention. As a result, the Commission, refrains, as it is no longer an issue, from examining the other admissibility requirements provided in the American Convention,<sup>16</sup> regarding the alleged victims who filed proceedings for nullification on April 15, 2004 and who are listed in Annex A.

<sup>11</sup> The date when these appeals were filed do not appear in the case file.

<sup>12</sup> The judgments of dismissal of all of these appeals were issued on October 26.

<sup>13</sup> The three cassation appeals (*casación*) appeals on constitutional grounds were filed on the following dates: a) December 17, 2004, by Gladys Matamoros, for 202 persons; January 5, 2004, by Gladys Matamoros, for Marco Antonio Rosado Umaña; January 5, 2005, by Guillermo Escobar, for Roger Aguilar Flores. The date when the cassation appeal (*casación*) was filed for 123 persons does not appear in the case file.

<sup>14</sup> The Supreme Court of Justice dismissed the appeal on constitutional grounds on the following dates: July 28, 2005 (in the proceedings filed by Gladys Matamoros for 202 persons); August 17, 2005 (in the proceedings filed for Marco Antonio Rosado Umaña and Roger Aguilar Flores). The date of the decision on constitutional grounds filed by Gladys Matamoros for 123 persons does not appear in the case file.

<sup>15</sup> Article 48 of the Law on the Jurisdiction of the Administrative Disputes Courts indicates that “the complaint must be filed within a time-limit of thirty working days and observe the following rules: a) If the proceeding is aimed against an express ruling and if the latter is among those that must be notified personally, the time-limit shall begin to be counted as of the working day after its notification; b) if personal notification is not applicable, the time-limit shall begin to run as of the working day after the official publication of the document or provision [...]” Article 105 stipulates that “the time-limits to file and challenge the complaint, submit and examine the evidence, and draw conclusions are reduced to half with respect to this procedure.” Article 109 indicates that “actions aimed at dismissing a civil servant, when the latter is protected by a special Law, can only be challenged in administrative disputes courts [...]”. Finally, Article 111 establishes that “Article 105 of the previous Section shall be applicable to this proceeding.”

<sup>16</sup> IACHR, Report No. 13/13, Petition 670-01, Gerardo Páez García Venezuela, (Venezuela), March 20, 2013, paragraph 34; Report No. 135/09, Petition 291-05, Jaime Salinas Sedó (Peru), November 12, 2009; Report No. 42/09, Petition 443-03, David José Ríos Martínez (Peru), March 27, 2009; Report No. 87/05, Petition 4580/02, Ricardo Antonio Cisco Ferrer (Peru), October 24, 2005; Report No. 73/99, Ejido "Ojo de Agua", Case 11.701 (Mexico), May 4, 1999; Report No. 24/99, Case 11.812, Ramón Hernández Berríos and others (Mexico), March 9, 1999; and Report No. 82/98, Case 11.703, Gustavo Gómez López (Venezuela), September 28, 1998, among others.

### C. Time period to file the petition

39. Article 46.1.b) of the Convention establishes that, for the petition to be admissible, it must have been filed within six months as of the date on which the interested party was notified of the final judgment that exhausted remedies under domestic law.

40. P 775-03 focuses on five proceedings in connection with judgments that dismissed constitutional challenges filed against Decree 58-2001, for a total of 70 alleged victims. Four of these proceedings,<sup>17</sup> filed for 28 victims, were ruled by the Supreme Court of Justice by judgments issued on March 7, 2003; and, according to the petitioners, notified on March 20, 2003. Because the State did not deny this information and because the present petition was sent to IACHR on September 17, 2003, in connection with these four proceedings, the requirement set forth in Article 46.1.b) of the Convention has been met.

41. As for the fifth constitutional challenge proceedings,<sup>18</sup> filed for 42 alleged victims, it was ruled by a judgment issued by the Supreme Court of Justice on February 20, 2002, that is, outside the six-month time-limit required by the above-mentioned article. As a result, the complaints filed by these 42 persons do not meet the requirement and, as a result, are inadmissible.

42. As for P 217-05, it was received by the present Commission on January 8, 2005 and involves three legal proceedings requesting reinstatement of employment and other compensations for 327 alleged victims.<sup>19</sup> The judgments of the Constitutional Chamber of the Supreme Court of Justice, which ruled on the cassation appeal (*casación*) and brought the above-mentioned proceedings to an end, were issued in July and August 2004; therefore, the six-month time-limit established in Article 46.1.b) of the Convention has been observed.

### D. Duplication of proceedings and international *res judicata*

43. Article 46.1.c) of the Convention establishes that a petition's admissibility depends on the requirement that the case "is not pending in any other international proceeding for settlement" and Article 47.d) of the Convention stipulates that the Commission shall not admit any petition that is substantially the same as any petition or communication previously examined by it or another international body. In the present case, the parties have not shown that any of these two circumstances is present, nor is there anything on record in the case file that could infer they were present.

#### 2. Characterization of the alleged facts

44. For admissibility purposes, all the IACHR need establish is whether the facts alleged tend to establish violations of the American Convention, as stipulated in its Article 47.b, and whether the petition is "manifestly groundless" or is "obviously out of order," in line with subparagraph (c) of the same article.

45. The petitioners pointed out that the State of Honduras had violated the rights enshrined in Articles 8 and 25 of the American Convention because they were dismissed without any justification, without any explanation for the reasons that they were removed from their jobs and without any legal proceedings for this purpose. They also pointed out that, with the legal proceedings filed, there was an inclination on the part of the State to deny justice. The State argued that it had issued an erroneous legal statute and that, in application of Articles 1, 8 and 25 of the Convention, it had corrected its error. It did the above via the Constitutional Chamber of the Supreme Court of Justice, which in its judgment of March 13, 2003 declared

<sup>17</sup> These proceedings filed by José Marcelino Vargas are as follows: a) No. 86-2002, January 17, 2002; b) No. 1820-01, August 24, 2001; c) No. 2243-01, October 23, 2001, and d) No. 2474-2001, November 27, 2001.

<sup>18</sup> These proceedings are identified as No. 1640-01 and were filed by José Marcelino Varas on November 27, 2001.

<sup>19</sup> All of these proceedings refer to appeals for nullification filed by Gladys Matamoros with the Court of Administrative Appeals and consist of the following: a) for 202 persons; b) for 123 persons; and c) for Marco Antonio Rosado Umaña and Roger Aguilar.

that the above-mentioned decree was unconstitutional. It also pointed out that the alleged victims had expressly consented to their dismissal when they had been paid workers compensation.<sup>20</sup>

46. The Commission considers that the alleged dismissal of the alleged victims without following due administrative process of law, as well as the supposed ineffectiveness of legal remedies that were filed, in view of these circumstances, they would tend to establish *prima facie* a violation of Articles 8.1 and 25 of the American Convention,<sup>21</sup> both in connection with the general obligations for respect and guarantee and the duty to adopt provisions under domestic law, as established by Articles 1.1 and 2 of the same instrument.

47. Furthermore, regarding the State's allegation that the alleged victims had expressly consented to their dismissal because they had received payment for their workers compensations,<sup>22</sup> the Commission deems it is relevant, in this case, to follow the doctrine established by the Inter-American Court in the Case of the Dismissed Congressional Employees v. Peru, and to withhold review of these measures of reparation alleged by the State for the corresponding review of the merits.<sup>23</sup>

48. Furthermore, the Commission finds that the petitioners did not substantiate *prima facie* autonomous facts that could have constituted violations of the rights enshrined in Articles 5, 10, 11, 17 and 24 of the Convention. As a result, the Commission declares that complaints in connection with these rights are inadmissible.

49. By virtue of the above, IACHR concludes that the complaints that were formulated, if proven, tend to establish violations of the rights protected by Articles 8 and 25 of the American Convention, both in connection with general obligations to ensure respect and guarantee and the duty to adopt provisions under domestic law, as set forth in Articles 1.1 and 2 of the same instrument, to the detriment of the alleged victims listed in Annex A.

## V. CONCLUSIONS

50. In view of the considerations of fact and law indicated above,

### THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

#### DECIDES:

1. To declare admissible the present case regarding the alleged violations of the rights enshrined in Articles 8 and 25 of the American Convention, in connection with Articles 1.1 and 2 of said instrument, to the detriment of the alleged victims listed in Annex A.

2. To declare the present petition inadmissible with respect to the alleged violations of Articles 5, 10, 11, 17 and 24 of the Convention.

<sup>20</sup> In fact, this reasoning was used by court authorities to dismiss the appeals requesting reinstatement of employment and payment of other compensations for the alleged victims.

<sup>21</sup> Cfr. I/A Court H.R., Case of the Dismissed Congressional Employees (Aguado Alfaro et al.) v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 24, 2006. Series C, No. 158, paragraphs 129 and following. Also see: I/A Court H.R., Case of Baena Ricardo and others. Judgment of February 2, 2001. Series C, No. 72, paragraphs 124 and 125. I/A Court H.R., Case of Claude Reyes and others. Judgment of September 19, 2006. Series C, No. 151, paragraph 118.

<sup>22</sup> In fact, this was the reasoning used by court authorities to dismiss the appeals requesting reinstatement of employment and payment of other compensations to the alleged victims.

<sup>23</sup> In the case of the Dismissed Congressional Employees v. Peru, the Court found that "in these international proceedings, determination of the effects of some of the alleged victims having returned to work in the institution from which they had allegedly been dismissed, and also the validity of their claims for reinstatement, correspond to considerations that belong to the stages on merits and, possibly, reparations." I/A Court H.R. Case of the Dismissed Congressional Employees (Aguado Alfaro et al.) v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 24, 2006. Series C, No. 158, paragraph 70.

3. To notify the parties of this decision.
4. To publish this decision and include in its Annual Report to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 21<sup>st</sup> day of the month of July, 2014. (Signed): Tracy Robinson, President; Rose-Marie Belle Antoine, First Vice President; Felipe González, Second Vice President; José de Jesús Orozco Henríquez, Rosa María Ortiz, Paulo Vannuchi and James L. Cavallaro, Commissioners.

## APPENDIX "A"

### I. ADMISSIBLE PROCEEDINGS FOR THE PURPOSES OF THIS REPORT

#### A. Judicial proceeding related to the constitutional challenge against Decree 85-2001, filed by José Marcelino Vargas before the Supreme Court of Justice, in favor of 9 persons.

1. Tránsito Edgardo Arriaga López
2. Rufino Ferrufino Cárcamo
3. José Emilio Ávila Andino
4. Jorge Alberto Cerrato Rivera
5. Mario Roberto Suazo Mejía
6. Alberto José Alfaro
7. Hermes Espino
8. Abel Antonio Castillo Ramírez
9. Francisco Humberto Rodríguez Maradiaga

#### B. Judicial proceeding related to the constitutional challenge against Decree 85-2001, filed by José Marcelino Vargas before the Supreme Court of Justice, in favor of 6 persons.

1. Jorge Enrique Valladares Argeñal
2. Julio César Funez Aguilar
3. Hugo Rafael Alvarado Escobar
4. Edcar Fernando Zavala Valladares
5. Guadalupe del Carmen Guzmán Segura
6. Alexis Rufino Ruiz Reyes

#### C. Judicial proceeding related to the constitutional challenge against Decree 85-2001, filed by José Marcelino Vargas before the Supreme Court of Justice, in favor of 2 persons.

1. Oscar Samuel Herrera Lara
2. Fredy Omar Madrid

#### D. Judicial proceeding related to the constitutional challenge against Decree 85-2001, filed by José Marcelino Vargas before the Supreme Court of Justice, in favor of 11 persons.

1. Adán Mejía Gómez
2. Pedro Ojelandes Bautista Cruz
3. Rafael Antonio López Rodríguez
4. Rodolfo Bueso Velásquez
5. Edgar Oswaldo Flores Pineda
6. Walter Guadalupe Vásquez Guillén
7. Santos Simeón Flores Reyes
8. Donaldo Esau Cortés Padilla
9. Donatilo Reyes Reyes
10. Silvio Edmundo Inestroza Padilla
11. Seraffín Obdulio Villacorta España

**E. Judicial proceeding related to the actions filed by Gladys Matamoros requesting reinstatement of employment and other compensation, before the Administrative Disputes Court (*Juzgado de Letras de lo Contencioso Administrativo*) in favor of two persons**

1. Marco Antonio Rosado Umaña
2. Roger Aguilar

**F. Judicial proceeding related to the actions filed by Gladys Matamoros requesting reinstatement of employment and other compensation, before the Administrative Disputes Court (*Juzgado de Letras de lo Contencioso Administrativo*) in favor of 123 persons**

1. Bolívar Salgado Welban
2. Daniel Kelly Madrid
3. Linda Flores Amador
4. Jerónimo Flores Amador
5. Emilio Mejía Williams
6. Marcial Coello Medina
7. Ángel Alfonso Bravo Fenly
8. Antonio Cruz Zúñiga
9. Rigoberto Nello Ordóñez
10. Adalberto López Zamora
11. José David Salmerón Cruz
12. Rosendo Valladares Daniel
13. Sefi Maick Campos
14. Pastor Santiago López
15. Modesto Brown Saliwaith
16. Dimas Cooper Exs
17. Maria Cristina Manzanares Ruiz
18. Rodolfo Tela Yanal
19. Benicio Martínez Duarte
20. Yoger Castellón Gonzáles
21. Gleniberto Greham Dario
22. Eleonor Cooper Wilban
23. Armudio Maick Pravia
24. Raúl Antonio Guzmán Padilla
25. José Luis Benitez Fenly
26. Julián Santiago Santos López
27. Dennys Lázaro Granwell
28. Janeth Lizbeth Haylock Ford
29. Jhonny Benjamín Kaylock Jims
30. Otto Reiniry Haylock Jons
31. Esteban Santiago Padilla
32. Yosaina Atiliano Nolan
33. Pablo Fernando Gómez Yacobe
34. Julio Martínez Wilson
35. Gilberto Martínez Wilson
36. Arnulfo Jarquin Coleman
37. Lázaro Tela Patón
38. Wilfredo Flores Mairena
39. Smith Flores Pavón
40. Donaldo Enrique López Meléndez
41. Orfa Cuevas Walter
42. Mario Wilson Paisano
43. Desmán Chico Pascón
44. Santos Gonzalo Amarante Oliva Tome



45. Lady Laena Pravia Balderramos
46. Fernando Rodríguez Moreno
47. Leana Lezeth Pelap Campo
48. Obelio Mami Waylang
49. Diógenes Curbelo Daniel
50. Orlando Maclin Maybeth
51. Norseman Marli Masier
52. Marcos Irias Thomas Manister
53. Luciano García Diaz
54. Yovany Cooper Welban
55. Felipe Lázaro González
56. Richard Wilson Mizk
57. Dyre Diems Manister
58. Baldivio Ideen Belly
59. Amilcar Maybeth Alastero
60. Fredal Joaquín Cobán
61. Regan Núñez Álvarez
62. Carlos Edilberto Oliva Cruz
63. Ancia Boscath Marcelo
64. Martín Adanir Blanco Martínez
65. Sixto Morales Beneth
66. Terry Luis Pedro Balderramos
67. Terencio Mendoza Mena
68. Johny Jayson Sandoval Álvarez
69. Jorge Rubén Trapp Marin
70. Elevardo Sambola Mistreguel
71. Mario Rolando Guardado Amador
72. Óscar Rolando Escobar
73. Sosimo Zavala Alfred
74. Marvin Cruz Flores
75. Omar Zavala Diaz
76. Cecilio Pravia Lacayo
77. José Bonifacio Oseguera Herrera
78. Consolación Isilda Kun Valderamos
79. Javier Pita Uit
80. Abner Barrios Wlter
81. Sebastián Rivera
82. Miguel Boscath Maybeth
83. Winger Cuevas Walter
84. Ramiro Cobos Ronas
85. Edilberto Lemam Lemoth
86. Roberto Mejía Rito
87. Ramón Flores Morales
88. Randford Kerrenghon Allen
89. Erdita Ferrera Flores
90. Jefe Wilmer Brown Medado
91. José Valásquez Martínez
92. Linda Patricia González Rosales
93. Juan Maldonado Walter
94. Luis Armando Cruz
95. Corlina Guerrero Beneth
96. Nelbia Paulisto Espita
97. Rolando Herrera Barios
98. Weldan Cardona Cuevas
99. Elsiner Timoteo Matute

100. Nardo Ambrosio Walda
101. Rosa Macario Trapp
102. Sted Ordóñez Calderón
103. Héctor Noel Funez Álvarez
104. Anni Edna Trapp Martínez
105. Lundre Greham Dario
106. Dolu Maly Paisano
107. Simón Gream Patón
108. Jeny Jeovany Balico Murillo
109. Job Bacaro Samuel
110. Carlos Roberto Wood Nicolas
111. Carlos Gaitan Smith Antonio
112. Javier Gonzáles Tadio
113. Zario Zelaya Pascón
114. Edy Adalid Barahona Zelaya
115. Agustín García Diaz
116. Lorenzo Anduray Zelaya
117. René García Diaz
118. Luisa Femora Martínez Cooper
119. Maribel Meléndez Hernández
120. Samabel Rivera Miller
121. Amilcar Calderón Barahona
122. Tony Lening Melado Zelaya
123. Fredy Geovani Martínez Zamora

**G. Judicial proceeding related to the actions filed by Gladys Matamoros requesting reinstatement of employment and other compensation, before the Administrative Disputes Court (*Juzgado de Letras de lo Contencioso Administrativo*) in favor of 202 persons**

1. César Augusto Somoza Alvarenga\*
2. Abén Claros Méndez
3. Nelson Edgardo Osorio Muñoz\*
4. Edwin Miguel Zapata Oliva
5. Rony Martín Flores Díaz
6. Selvín Rodríguez Arita
7. Emigdio García Estrada
8. Maria Beatriz González González
9. Mario René Mendoza Molina
10. Martín Antonio Domínguez Argueta\*
11. Francisco Arturo Cruz Diaz
12. Noé Rodríguez Sánchez
13. Tomasa Isabel Verde Coello
14. Rafael Emilio Martínez Pineda
15. Roberto Carlos Rosales Umanzor
16. Santos Camilo Padilla
17. Melin Omar Macías Bonilla
18. Francisco Hermes Espino
19. Lino Antonio Flores Cruz
20. Miguel Ángel Sorto Meza
21. Luis Enrique Baquedano Rueda
22. Benjamín Eluid Rodríguez Álvarez
23. Hernán Romero Betanco
24. Neptaly García
25. Alex Andrés Chévez Reyes

26. Julio César Gutiérrez Herrera
27. Dennys Heriberto Rodríguez Rodríguez\*
28. Héctor Florencio Padilla Maldonado\*
29. Anibal Montoya Romero
30. Donaldo Esaú Cortez Padilla
31. Julio Cesar Villalobos Velásquez
32. Ana Marina Escalante Lopez
33. José Cecilio Tejeda Gómez
34. Miguel Ángel Benítez Martínez
35. Gerardo Anibal Lagos Amador
36. Oscar Oswaldo Galeano Morales
37. María Joselina Cerrato Ordóñez
38. Moisés Hernán Portillo Mondragón\*
39. Faustino García Cárdenas\*
40. Ramón Pío Lorenzo
41. Ecar Fernando Zavala Valladares
42. José Emilio Ávila Andino
43. Herson Edmundo Pineda Palma\*
44. Juan Miguel Vásquez
45. Francisco Javier Reyes Agurcia
46. Dionel Orellana
47. José Antonio Canales
48. Wilfredo López
49. Leonel Orlando Sandoval
50. Víctor Armando Reyes Mazariegos
51. Francisco Pérez Munguía
52. Julio César González
53. Tomasa Ondina Tejeda Romero
54. Denis Edgardo Zepeda
55. Juan Antonio Casco Gómez
56. Miguel Angel Gudiel
57. Jose Alfredo Lainez
58. José Antonio Navarro
59. Óscar Alexander Molina Vargas
60. Carlos José Giacoman Díaz
61. Fredy Arturo Mancía
62. Jorge Domingo Suazo Zelaya
63. José Arnoldo Soriano Fuentes
64. Christiam Lenin Carias Arnold
65. Joel Alexander Reyes Agurcia
66. Victalia Zelaya Oliva\*
67. Gustavo Ramón Portillo Garmendia
68. Noel Antonio Alvarenga
69. Juan Francisco Perdomo Zelaya
70. Fredis Roldam Cabrera Baca
71. José Antonio Vanh Lung Raudes
72. Ixel Amed Hernández Alcerro
73. Octavio Escobar Banegas
74. Indira Gaetama Ever Cantillano
75. Juan Francisco Reyes
76. Wilfredo Rubio Barahona
77. Abel Antonio Castillo Ramírez
78. Damaris Abigail Gomez Amador
79. Walter Ratlif Juárez

80. Marvin Leonel García Andino\*
81. Gustavo Adolfo Bonilla Quiñónez
82. José Randolpho Castillo Lazo
83. Rosa Antonio Tercero Lanza
84. Enrique Santos Sánchez Osório
85. Horacio Zelaya
86. Herin Rafael González Pagoada
87. Adán Sánchez López
88. Mateo Ismael Oyuela Carrasco
89. Rafael Geovani Enamorado Padilla
90. Felícito Reynaldo Baca Suazo
91. Wilson Yovany Midence Banegas\*
92. Abdy Elmer Medrano Cruz\*
93. Juan Bautista Vargas Díaz
94. Carlos Manuel Viera Reyes
95. Óscar Rene Ríos Avelares
96. Germán Rafael Cardona Veliz
97. Federico Adolfo Irias Godoy
98. Oscar Edgardo Vásquez Reyes
99. Jorge Mario Velásquez Perez
100. Wilfredo García Rosales
101. Ricardo Adolfo Núñez Savala
102. Juan Calixto Pérez Banegas
103. Denis Juventino Meraz Oseguera
104. Carlos Francisco Castro Hernández\*
105. Donaldo Alonzo Burke Ordóñez
106. Manuel Napoleón Sánchez Hernández
107. Luis Yovanni Agüero Ramírez
108. Nulman Edwin Rivera Ortez
109. Rufino Ferrufino Cárcamo
110. José Ulfrán García López
111. Carlos Andrés Rivera Mejía
112. Alexis Rufino Ruíz Reyes
113. Blas Alexander Rivera Carrillo
114. Jorge Alberto Cerrato Rivera
115. Walter Andino James\*
116. Oscar Alfredo Lobo Cruz
117. José René Álvarez López\*
118. Juan Ramón Hidalgo García
119. Marco Antonio Núñez Aguilar
120. Santiago Mendoza Osorto
121. José Anibal Alvarado Rivera
122. Ercilia Aguilar Guerrero, como heredera de Carlos Heriberto Cruz Reyes\*
123. Marbin Alexis Lagos Rodríguez
124. Marvin Antonio Cáliz Rosales
125. Óscar Francisco Andrade Flores
126. Mario Roberto Paz Santos
127. Édgar Amilcar Castillo Dardón
128. Ana Erika Peña
129. Clarisa Araminta Rivera Rodríguez
130. Gerlín Yesenia García Amaya
131. Jorge Alberto Lardy
132. Enzo Leonardo Suazo Maldonado\*
133. Gustavo Aurelio Díaz Ullóa

134. Héctor Orlando Martínez
135. German López
136. Miguel Ángel Chinchilla Erazo\*
137. Mario Roberto Suazo
138. Raúl Enrique Chávez López
139. Nery David Durón Matamoros\*
140. Alexis Yovany Chacón López
141. Jorge Enrique Valladares Argeñal
142. Miguel Ángel García Ramírez
143. Luis Felipe Drodríguez
144. Jaime de Jesús Hernández
145. Edman Obed Guandique Rodríguez
146. Marvin Javier Galo Espinal
147. Elmi Jobany Ríos Pérez
148. Óscar Samuel Herrera Lara
149. Santos Vicente Lainez Oseguera
150. José Edgardo Salgado Barrientos
151. Nelson Julián Acosta Almendarez
152. José Rodolfo Torres Mejía
153. José Cecilio Medina Herrera
154. Jorge Alberto Ávila Menjivar\*
155. Francis Omar Espinal
156. Raúl Anibal Bonilla Spinoza
157. Agustín Puerto Castro
158. José Antonio Sánchez Lagos
159. Ángel María Rodríguez
160. Denis Chavarría Vega
161. Dagoberto Ávila Flores
162. Carlos Manuel Sierra Jiménez
163. Miguel Lazo Castillo,
164. Ovidio García
165. Milton Orlando Medina Vallecillo
166. Santos Saúl Valle Gutiérrez
167. Víctor Hugo Vivas Lozano
168. Noel Antonio Alvarenga
169. Oscar Alfredo Lobo Cruz
170. Luis Fernando Sierra
171. Santos Emeterio López Murillo
172. José Santos Hernández Padilla
173. Dolores Yolanda Vidaurreta Montes
174. Francois Demalta Padilla Maldonado
175. José Alfredo Girón Rodríguez
176. Rodolfo Ponce Bardales
177. Fernando Chávez González
178. José Tomás Osorto Soriano
179. Valentín Colindres López
180. Leonel Osmín Merlo Canales
181. José Midence Sosa Ortez
182. Isidrio Brizuela
183. Óscar Orlando Cabrera Barahona
184. José Jeony Canales Fúnes
185. Félix Edil Meléndez García
186. Luis César Benavides Murillo
187. Helin Antonio Fernández Rodríguez
188. Juana Rivera Zelaya

189. José Hernán Ramos Velásquez
190. Óscar Armando Medina Martínez
191. Geovany Javier Velásquez
192. Douglas Asis Hernández Luna
193. Edwin Enock Castellón Barrientos
194. Alejandro García Meza
195. Marco Antonio Discua Méndez
196. Carlos Alberto Manzanares Flores
197. Óscar Orlando Cabrera Barahona
198. Freddis Omar Reyes Amaya
199. Daniel Humberto Barahona Flores
200. Jacobo Ordóñez Espinal
201. Federico Ponce Sorto
202. Emilio Gallego Lone

**NOTE:** All those names of alleged victims who are accompanied by “\*”, are also in the legal process related to the constitutional challenge against Decree 85-2001, filed by José Marcelino Vargas before the Supreme Court of Justice, in favor of 42 persons, which was considered admissible for the purposes of this report.

## **II. INADMISSIBLE PROCEEDINGS FOR THE PURPOSES OF THIS REPORT**

### **A. Judicial proceeding related to the constitutional challenge against Decree 85-2001, filed by José Marcelino Vargas before the Supreme Court of Justice, in favor of 42 persons.**

1. Samuel Villatoro Ortiz
2. Miguel Ángel Chinchilla Erazo
3. Hugo Nelson Alvarado Bonilla
4. César Augusto Somoza Alvarenga
5. José Ángel Murillo Paniagua
6. Allan Reynerio Nájera Martínez
7. Miguel Ángel Villatoro Aguilar
8. Fredy Omar Reyes Amaya
9. Erwin Emil Mayes Ríos
10. José Rolando Casco Torres
11. Nelson Edgardo Osorio Muñoz
12. Ildes Acosta Rodríguez
13. Juan Francisco Ordoñez González
14. Marco Tulio Varela Juárez
15. Francisco Javier Panchame Serrano
16. Jorge Alberto Ávila Menjivar
17. Danis Ronet Flores Castro
18. Roberto Enrique Varela Ordoñez
19. José Daniel Amador Ordoñez
20. Marvin Leonel García Andino
21. Juan Bautista Vargas Diaz
22. Herson Edmundo Pineda Palma
23. Oscar Oswaldo Galeano Palma
24. José René Álvarez López
25. Enzo Leonardo Suazo Maldonado
26. Wilson Yovany Midence Banegas
27. Maria Joselina Cerrato Ordoñez
28. Donaldo Alonso Burke Ordoñez
29. Nery David Durón Matamoros
30. Carlos Heriberto Cruz Reyes



31. Carlos Francisco Castro Hernández
32. Dennys Heriberto Rodríguez Rodríguez
33. Moisés Hernán Portillo Mondragón
34. Abdy Elmer Medrano Cruz
35. Blas Alexander Rivera Carillo
36. Martín Antonio Domínguez Argueta
37. Faustino García Cárdenas
38. Victalia Zelaya Oliva
39. Walter Andino James
40. Héctor Florencio Padilla Maldonado
41. Juan Miguel Vázquez Márquez
42. Oscar Rene Ríos Avelares

**B. Judicial proceeding related to the actions filed by Delmy Anarda requesting reinstatement of employment and other compensation, before the Administrative Disputes Court (*Juzgado de Letras de lo Contencioso Administrativo*) in favor of 11 persons**

1. Rigoberto Contreras Zapata
2. Jorge Alberto Ardón Rodríguez
3. Luis Andrés Suazo Arita
4. Rosa Dilia Salinas Barahona
5. Óscar Reniery Sierra Vásquez
6. Luis Armando Sánchez Navas
7. Lourdes Sofía Pineda Vaquedano
8. Óscar Armando Vásquez Tercero
9. Pedro Rafael Zúñiga Guillén
10. Ronal Evelio Banegas Rodríguez
11. Jesús David Zambrano